

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/16/2012

CHARON HAYES,

Plaintiff,

-against-

CITY OF NEW YORK, FRANCISCO DE LOS
SANTOS, DAVID PARAY and DANIEL
NICOLETTI,

Defendants.

x

WHEREAS, plaintiff commenced this action by filing a complaint on or about August 16, 2010, alleging that the defendants violated plaintiff's federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff Charon Hayes the sum of Five Hundred Twenty-five Thousand and No/00 (\$525,000.00) Dollars in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the defendants and to release the defendants and any present or former employees and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

3. Plaintiff shall execute and deliver to defendant City of New York's attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, plaintiff shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules or

regulations of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. Plaintiff agrees to hold harmless defendants regarding any liens or past and/or future Medicare payments, presently known or unknown, in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
January 30, 2012

FRED LICHTMACHER, ESQ.
Attorney for Plaintiff
The Empire State Building
350 Fifth Avenue, Suite 7116
New York, NY 10118

By:

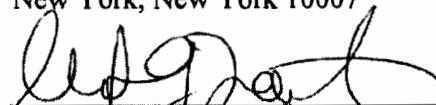


Fred Lichtmacher, Esq.
Attorney for Plaintiff

Dated: New York, New York
2/2/2012, 2012

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
*Attorney for Defendants City of New York,
De Los Santos, Paray and Nicoletti*
100 Church Street, Rm. 3-177
New York, New York 10007

By:

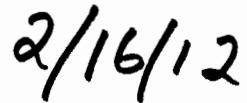


Arthur G. Larkin, Esq.
Assistant Corporation Counsel

SO ORDERED:



HON. RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE



GENERAL RELEASE

KNOW THAT I, CHARON HAYES, date of birth [REDACTED] Social [REDACTED]
[REDACTED] plaintiff in the action entitled Hayes v. City Of New York et al.,

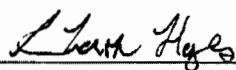
10-CV-6103 (RJS), in consideration of the payment of Five Hundred Twenty-five Thousand and No/00 (\$525,000.00) Dollars to me by the City of New York, do hereby release and discharge the defendants; the defendants' successors or assigns; and all past and present officials, employees, representatives and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of my civil rights, from the beginning of the world to the date of this General Release, including claims for costs, expenses, and attorneys' fees.

This Release may not be changed orally.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE

AND FULLY UNDERSTANDS IT.

IN WITNESS WHEREOF, I have executed this 31 day of January, 2012.


CHARON HAYES

STATE OF NY, COUNTY OF NY SS.:

On Jan 31, 2012 before me personally came VINCENT WILLIAMS to me known, and known to me to be the individual described in, and who executed the foregoing RELEASE, and duly acknowledged to me that he executed the same.


NOTARY PUBLIC

FRED B. LICHTMACHER
NOTARY PUBLIC, STATE OF NEW YORK
REG NO. 02L6017627
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES 4/28/15

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

CHARON HAYES,

Plaintiff,

PLAINTIFF'S AFFIDAVIT OF
STATUS OF LIENS

-against-

10-CV-6103 (RJS)

CITY OF NEW YORK, FRANCISCO DE LOS
SANTOS, DAVID PARAY and DANIEL
NICOLETTI,

Defendants.

----- X

STATE OF NEW YORK)
: SS.:
COUNTY OF New York)

CHARON HAYES, being duly sworn, says:

SECTION I - Background Information (complete all items)

I am the plaintiff in the above-entitled action, and reside at [REDACTED]

My date of birth is [REDACTED] and my social security number is [REDACTED]

My Medicare number is N/A.

By checking this box I affirm that I am making this affidavit with full knowledge that the same will be relied upon by The City of New York, its agents, employees, and representatives in connection with settlement of this claim/action against them.

SECTION II – The City of New York Agencies or Departments (check one)

I am not indebted to any department or agency of The City of New York and there are no liens outstanding.

I have unpaid liens, violations or other debts owed to a department and/or agency of The City of New York. I expressly consent to the payment of those sums, or to the sums agreed upon by counsel, directly from the settlement proceeds.

List all liens, violations and/or other debts by providing the name of each City agency (e.g. Department of Finance; Department of Sanitation; Environmental Control Board) and the outstanding sums due below:

SECTION III – Medicaid or Public Assistance (check one)

I have not received Medicaid or Public Assistance benefits.

I have received Medicaid and/or Public Assistance benefits. The Human Resources Administration, Department of Social Services of The City of New York ("HRA") has issued a Final Notice of Lien which provides a total amount due of \$14,229.00 (attach copy). I understand that HRA will be paid that amount, or the amount agreed upon by counsel, directly from the settlement proceeds, and that the payment of an amount lesser than the final notice amount is a non-assertion of HRA's lien against the proceeds of this settlement and shall not be deemed a waiver of the full amount owed.

SECTION IV - Medicare (check one)

As of the date of this affidavit, I have not received Medicare coverage/ benefits.

[Note: This query is made pursuant to Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, 42 U.S.C. 1395(B)(8)].

I am a Medicare beneficiary. My Medicare # [HIC #] is _____.

[Note: This query is made pursuant to Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, 42 U.S.C. 1395 (B)(8).] I am aware of my obligation to reimburse Medicare, out of the proceeds of a settlement or judgment in this lawsuit, for payments and/or benefits Medicare has provided to me, or provides to me in the future, that relate to the injury or condition that is the subject of the lawsuit. I understand that reimbursement directly to Medicare may be made from proceeds I receive from any judgment or settlement of this action.

SECTION V - Child Support

I am not in arrears in child support payments.

I am in arrears in child support payments and expressly agree to the collection by the NYC Office of Child Support of all unpaid sums directly from the settlement proceeds.

SECTION VI - New York City Public Hospitals (check one)

I am not indebted nor am I subject to liens by any City public hospital.

I am indebted to _____ [City hospital] in the total lien amount of \$ _____. I expressly consent to the payment of that sum directly from the settlement proceeds.

SECTION VII - Workers' Compensation/Disability Benefits (check one)

I have not received Workers' Compensation or Disability Benefits and there are no liens for the same in this matter.

I am indebted to _____ [for Workers' Compensation or Disability Benefits] in the total lien amount of \$_____. I expressly consent to the payment of that sum directly from the settlement proceeds.

Charon Hayes
CHARON HAYES

Sworn to before me this
31 day of January, 2012

Fred B. Lichtmacher
NOTARY PUBLIC

FRED B. LICHTMACHER
NOTARY PUBLIC, STATE OF NEW YORK
REG NO. 02LI6017627
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES 4/23/15